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REPORT

OF THE EXECUTIVE COMMITTEE ON THE PROPER
ORGANIZATION OF THE LAW DEPARTMENT OF
CORNELL UNIVERSITY.

[SUBMITTED TO THE BOARD OF TRUSTEES, AND ADOPTED
OCTOBER 27, 1886.]

*To the Honorable, the Board of Trustees of
Cornell University:*

GENTLEMEN—

At the meeting of the Board of Trustees held June 16, 1886, the report of the special committee on the question of establishing a Law Department at this University was submitted and adopted, and the Executive Committee was instructed to submit at a future meeting of the Board a plan for carrying out the several recommendations contained in the report.

In accordance with these instructions the Executive Committee beg leave to submit the following suggestions for the consideration of the Board.

There are two facts that make it somewhat difficult to determine absolutely upon a plan of organization. The first is, that the rules for admission to the bar in this state have been fixed by action of the Legislature and the rules of the higher courts. The second is, that as the Faculty of the new Law School has not yet been appointed, it is impossible to have the benefit of the opinions of those who will mainly have entrusted to them the work of carrying out the plans adopted. There are, however, certain general features which we think may profitably be determined at the outset. It will be convenient to consider these under a number of distinct heads.

I.—AS TO THE LENGTH OF THE COURSE OF INSTRUCTION.

On this subject there is some difference of usage even among the law schools of the highest grade. The schools at Columbia College and the University of Michigan have a two years' course of nine months each year, leading to the degree of Bachelor of Laws. At

Columbia College provision is made for additional studies to be carried on through a third year. At Harvard the regular course extends through three years, at the end of which the student, on passing the requisite examination, receives the degree of Bachelor of Laws. Provisions are made at Harvard, however, for the passing of intermediate examinations in case of ability on the part of the student to do so, and consequently the way is open by which a student may, in exceptional cases, receive the degree in two years. At Yale the normal course, leading to the degree of LL. B. extends through two years, but additional courses are given for two years of post-graduate work, leading to the degree of LL. D. If we were free to consider the question from what may be called an ideal point of view, probably a course of three or four years would seem desirable. But the fact that the rules of the court in the State of New York require one year of study in an office before an applicant can be admitted to the bar makes it impossible for a Law School to require that the whole time of the student should be devoted to studies in such a school. Consequently we are practically limited to a normal period of two years.

The period of instruction should, in our judgment, extend through the college year of nine months, and should in all respects be co-ordinate with the courses at present existing in the University.

II.—CONDITIONS OF ADMISSION TO THE CORNELL LAW SCHOOL.

The state of education in our country seems to make it necessary that every law school should provide for two classes of students: those who have received the regular training of a collegiate course, and those who have not had the advantage of such a training. It is true that at some of the law schools a strenuous effort has been made to raise the standard of scholarship so as to attract students who have already taken a baccalaureate degree; but no law school as yet has seen its way clear to limit its members to such as have completed an undergraduate course. Nor in our opinion would such a limitation be wise. Nobody can look over the ranks of the profession without seeing that a very large proportion of those who have risen to high distinction at the bar, have attained their eminence without the advantage of the preliminary training acquired in an undergraduate course. To shut off the large class of able and ambitious men who find it impracticable to acquire such a course would place an unjustifiable limitation upon the number that could profit by the instruction afforded. In common with other schools, therefore, we find ourselves obliged to provide for two classes of students that have had very different amounts of preliminary training. This fact makes

it necessary that we decide the question as to the minimum grade of education we should require for admission to the school.

In the State of New York provision has been made for examinations by the Board of Regents. These examinations are carried to all the high schools, and to the larger number of the academies of the State. They set a uniform standard; and in our judgment, the standard required for the Regents' academic diploma should be the minimum requirement for admission to the Law Department. The applicant should be required either to bring a Regents' diploma or pass an examination equivalent to the examination by the Regents. Practically, therefore, the conditions of admission to the Law Department would be the same as the conditions of admission to the scientific and technical courses of the University at the present time.

The difference between the ability to learn on the part of students who have already taken a bachelors degree on the one hand, and the ability to learn on the part of those who are admitted on the Regents' academic diploma, or its equivalent on the other, will still divide the students into two somewhat distinct grades. Although it should be found that at the time of admission, both grades are equally ignorant of the law, it will certainly be shown at an early date that the graduate student can acquire his profession very much more rapidly than can the student who has had simply such a preparatory training as is to be obtained in the academies and high schools. This fact is recognized by the rules of our courts governing the time of preliminary study before admission to the bar. The embarrassment growing out of this difference is probably felt in every law school in the land; and the most marked effect of it is ordinarily to reduce the time during which the graduate student remains at the law school to a single year. In some of the best schools in the country the opinion prevails that the graduate student can learn nearly or quite as much in one year as the average student who has not had a collegiate course can learn in double that amount of time. The consequence is that the graduate student not unfrequently thinks it a misuse of time to remain a second year for the sake of his degree.

The most obvious way in which this tendency can be satisfactorily met is through the advantages offered by the other departments of the University, especially through those offered by the department of History and Political Science. Studies in the constitutional history of England and of the United States, in the development of constitutional law, in administrative law, in the historical development of the common law and of the civil law, in the history of political theories and ideas, in the development of jurisprudence as a science, in short,

in all the multiform phases of what we know as political science, may be made to supplement the studies in law in such a way as immensely to broaden the education, and to afford the student every possible incentive to make his knowledge as thorough and as extended as possible. In studies of this class our University affords peculiar advantages, and the details of the work should be so arranged as to present every inducement before the graduate student to remain here during two full years. On this point we desire to speak with especial emphasis. If our methods of administration are to be improved, if our civil service is to be made purer and more efficient, if our methods of municipal government are to be rescued from the degradation into which they have so generally fallen, if legislation is to be lifted up to a higher plane, it is to be in large measure the result of most careful and most thorough studies carried on in our higher institutions of learning; and it is safe to say that no class of men are to be so well situated to exert a powerful and uplifting influence on the condition of the country as those who are thoroughly educated in the law and in the various branches of political science. It is for this reason that a special inducement in the way of elective studies should be offered to graduate students. To this end, courses in the Department of History and Political Science should be marked out for graduate students that will enable them to study for the Master's degree at the same time that they are studying for the degree of LL. B.

Such an arrangement would be in strict accordance with the methods that are now prevailing in our best law schools. At Columbia College provision is made for giving at the end of three years of study the degree of Ph. D. in addition to the degree of LL. B., and at Harvard University the Academic Council are authorized to recommend the degree of M. A. for students who have passed a satisfactory course of study in addition to the required work of the law school. A judicious arrangement by means of which students pursuing their law studies could also take elective instruction in the department of History and Political Science would, to a large extent at least, remove the temptation to abandon the law school after a single year of study. We recommend, therefore, that in the final adjustment of courses the opportunities afforded by the other departments of the University be constantly borne in mind.

III.—COURSES OF INSTRUCTION.

This subject is one which in its details must be left for adjustment by the Faculty of the Department. In looking over the branches that are taught at Harvard, Yale, Columbia, Albany, and the University of Michigan, it is found that there is a striking similarity in the

courses offered. This similarity is the result of the necessities of the case. The elements of Municipal Law in all parts of the country are essentially the same ; and it is upon Municipal Law that by far the greatest stress in a legal education must be placed. The number of subjects, therefore, that must be taught in our Law School, is furnished at our hand. This brings us to the next question, viz. :

IV.—THE AMOUNT OF INSTRUCTION THAT MUST BE PROVIDED.

Formerly it was the custom to bunch all of the students in a law school together, and lecture to them all in one indiscriminate mass, seniors and juniors thus receiving the same instruction. By the best schools this method has now almost or quite universally been abandoned. The two classes are now separated the one from the other, and the instruction given to the juniors is quite different from that given to the seniors. This is so natural a method that it is difficult to justify any other arrangement. We ought not to think of adopting any other plan at this University. The junior class should be separated from the senior class, and the juniors should not be admitted to the exercises of the senior class even as listeners ; but seniors should be permitted, and even encouraged to attend the lectures given to the juniors. Two lectures a day to each class should be given. It will probably be found convenient to have the more formal lectures to each class given at consecutive hours, those to the juniors occupying two hours in the forenoon, those to the seniors two hours in the afternoon. In addition to these lectures there must be regular text book work, at least for the juniors, and, perhaps, also for the seniors. A thorough drill in Blackstone, Kent, and probably in some other elementary text books should be insisted upon. This work could probably be well done by an assistant professor. Practicing attorneys who might desire the advantage of the lectures should be admitted to instruction in either class without examination. Moot courts should be organized, under the immediate charge of the professors, to accustom the students to the work of the investigation, the preparation and the trial of causes. In considering the amount of work that will thus be required we are brought to the next topic, viz. :

V.—THE AMOUNT AND KIND OF THE TEACHING FORCE.

An inspection of the announcements of the schools at Harvard, Yale, Columbia, and the University of Michigan, gives the following results : At Harvard instruction is given by four professors and one assistant professor, all of whom, apparently, give nearly or quite their whole time to the school. It is presumed that they are free for purposes of counsel, but it does not appear that either of them is so largely engaged in active practice as to interfere with the amount or

the regularity of his instruction. At Harvard the custom appears not to prevail of inviting in lecturers or teachers not immediately and constantly connected with the school. At Yale there are also four professors, and a very considerable number of lecturers on special subjects. Four members of the academic Faculty also give instruction to students who take a graduate course. Apparently four professors give a very considerable share, though not the whole, of their time to the work of instruction. At Columbia College the major part of the work of instruction falls upon three professors. There are, however, two special lecturers, besides a considerable number of professors in the school of Political Science, who give instruction to the members of the law school, under the conditions above indicated. At the University of Michigan there are four professors and an assistant professor, two of the professors and the assistant professor residing at the school, the others coming to the school with more or less regularity throughout the year, from Detroit. The Detroit members of the Faculty, and the assistant professor are actively in practice, while the two resident professors devote the most of their time and energy to the daily work of the law school.

If we are to put ourselves upon the plane of these schools, it is easy to see what is the amount of instruction that will be needed. When the school shall be thoroughly established the equivalent of four or five professors will be required. It is, however, by no means essential that the full number should be constantly at the University, or even that they should reside in Ithaca. On the contrary, there would be unmistakable advantages in having at least a part of the teaching force actively engaged in the practice of the courts. It seems not improbable, therefore, that a part of the teaching force may wisely be drawn from cities in the vicinity, wherever suitable persons for giving instruction can be found. But while this is the case, it is absolutely necessary that a part of the corps of instruction should be devoted earnestly to the daily work of the school. This force need not be very large. It ought, however, from the first to consist of not less than two professors and an assistant professor. If during the first year in the history of the school, no attempt should be made to instruct more than a junior class, three persons well equipped for the work could probably give all the needed instruction. But this could only be done in case the persons selected for the Faculty should have their knowledge so well in hand, and so organized as to be able to give daily instruction. Upon the resident professors for the most part the character of the school must largely depend. The greatest care, therefore, must be taken to avoid errors in the selection of the resident faculty.

But the entire burden of instruction should not fall upon the resident professors. Other persons, either resident or non-resident, should be appointed for courses of lectures on special subjects, and these courses would have to be given at such times as would accommodate the special lecturers.

VI.—RATES OF TUITION.

Under the head of tuition a clearly defined policy should be adopted. Under the present law of the State we should be obliged to accept the State scholarships for the law department; and under the present law of the University we should also be obliged to give gratuitous instruction to graduate students. It seems to us questionable whether the people of the State will desire that the free scholarships shall go to those who are preparing themselves for practice in the law, to the necessary exclusion of the same number who are preparing themselves for usefulness by pursuing an undergraduate course. It seems to us also more than doubtful whether the University should gratuitously educate in the law graduates of this and other universities. In our judgment, therefore, a tuition fee, the same as in the other departments of the University, should be required of all students of the new department.

In view of these considerations, we recommend the adoption of the following resolutions :

1. *Resolved*, As the policy of this Board of Trustees, that the Faculty of the Department of Law at Cornell University consist of the President of the University, a resident dean, one resident professor, one assistant professor and such non-resident professors and lecturers as may from time to time be appointed.

2. *Resolved*, That for the election of the Faculty in the Department of Law, a special meeting of the Board of Trustees be held on the third Wednesday in January next.

3. *Resolved*, That the Executive Committee be authorized to prepare a public announcement of the Law School, to be issued as soon as practicable after the appointment of the members of the Law Faculty, such announcement to be framed in accordance with the spirit of the foregoing report.

4. *Resolved*, That the Executive Committee be, and are hereby authorized to inquire into and report at the special meeting of the Board, on the changes that may seem to be desirable in the Department of History and Political Science, in order to adapt its instruction to the needs of the University after the Law Department is established.



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